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6 Attorney for **JOHNNIE RAY BURKHOLDER**

7  
8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

\* \* \*

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 vs.  
13 JOHNNIE RAY BURKHOLDER,  
14 Defendant.

Case No.: 2:12-cr-240-PMP-CWH

**UNOPPOSED MOTION AND**  
**PROPOSED ORDER TO CORRECT**  
**JUDGMENT**

15 COMES NOW THE DEFENDANT, Johnnie Ray Burkholder, by and through  
16 counsel, Rene L. Valladares, Federal Public Defender, and Nisha Brooks-Whittington, Assistant  
17 Federal Public Defender, pursuant to Federal Rules of Criminal Procedure 36 requesting that Mr.  
18 Burkholder's Judgment be corrected to reflect the restitution amount due and owing of \$867.19.

19 This motion is entered into for the following reasons:

20 1. On December 3, 2012, Mr. Burkholder pleaded guilty to one count of Bank  
21 Robbery, in violation of 18 U.S.C. § 2113, pursuant to a non-binding written plea agreement. Docket  
22 No. 23. This Court sentenced Mr. Burkholder on March 4, 2013, to one hundred and fifty-one (151)  
23 months in the Bureau of Prisons' custody and to a three (3) year term of supervised release to follow.  
24 Docket No. 32. The Court further ordered Mr. Burkholder to pay restitution in the amount of \$4,473.  
25 Id.

26 2. Undersigned counsel and Assistant United States Attorney, Michael Chu  
27 ("Mr. Chu") discussed the restitution obligation and agreed that the money that was recovered from  
28

1 Mr. Burkholder's possession at the time of his arrest would be returned to the bank and thus credited  
2 towards his restitution obligation. See Ex.1. During the sentencing hearing on March 4, 2013,  
3 undersigned counsel noted on the record that an "FBI agent recovered \$3600 on [Mr. Burkholder's]  
4 person which would bring the restitution amount down to \$873." See Ex.2 (Transcript of  
5 Proceedings, March 4, 2013 at 32, lines 24-25). Mr. Chu requested the Court "should just make the  
6 \$4,473 loss" as part of the restitution list payable to "Nevada State Bank." "Then Mr. Burkholder  
7 will then get credit for the money that was seized and returned." Id. at 33, lines 14-17.

8           3. Undersigned counsel contacted Federal Bureau of Investigation's Agent, Henry  
9 Schlumpf ("Mr. Schlumpf") and was informed that he returned the seized money from Mr.  
10 Burkholder in the amount of \$3,605.81 to the Nevada State Bank. Mr. Schlumpf shared this  
11 information with a representative in the Financial Litigation Unit in the United States Attorneys'  
12 Office. Undersigned counsel recently contacted Assistant United States Attorney, Roger Yang and  
13 explained the status of the seized money and request to correct Mr. Burkholder's restitution  
14 obligation to reflect the money returned to the Nevada State Bank.

15           4. The government has no opposition to this request and agrees that the  
16 restitution amount should be corrected to \$867.19 to reflect the \$3,605.81 returned to the Nevada  
17 State Bank. Mr. Burkholder therefore respectfully request that the Court correct his judgment to  
18 reflect restitution in the amount of \$867.19.

19  
20           DATED this 17<sup>th</sup> day of June, 2013.

21  
22           RENE L. VALLADARES  
23           Acting Federal Public Defender

24           By: /s/ Nisha Brooks-Whittington  
25           NISHA BROOKS-WHITTINGTON  
26           Assistant Federal Public Defender  
27  
28

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNIE RAY BURKHOLDER,

Defendant.

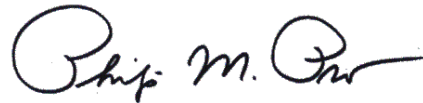
Case No.: 2:12-cr-240-PMP-CWH

**ORDER TO CORRECT JUDGMENT**

**ORDER**

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the previously filed judgment be corrected to reflect restitution ordered in the amount of \$867.19.

DATED \_ 18th day of June, 2013.



UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF ELECTRONIC SERVICE**

The undersigned hereby certifies that I am an employee of the Law offices of the Federal Public Defender for the District of Nevada and am a person of such age and discretion as to be competent to serve papers.

That on June 17, 2013, I served an electronic copy of the above and foregoing **UNOPPOSED MOTION AND PROPOSED ORDER TO CORRECT JUDGMENT** by electronic service (ECF) to the person named below:

DANIEL G. BOGDEN  
United States Attorney  
ROGER YANG  
Assistant United States Attorneys  
333 Las Vegas Blvd. So., 5<sup>th</sup> Floor  
Las Vegas, Nevada 89101

/S/ Nancy Vasquez  
Nancy Vasquez, Legal Secretary to  
NISHA BROOKS-WHITTINGTON,  
Assistant Federal Public Defender